

AMENDED IN SENATE JUNE 4, 2003

AMENDED IN SENATE MAY 6, 2003

SENATE BILL

No. 704

Introduced by Senator Florez

February 21, 2003

An act to add Section 41606 to the Health and Safety Code, relating to air quality, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 704, as amended, Florez. Air quality: agricultural burning.

(1) Under existing law, each air pollution control district and air quality management district is authorized to establish a permit system that requires, except as specified, that before any person builds, erects, alters, replaces, operates, or uses any article, machine, equipment, or other contrivance that may cause the issuance of air contaminants, the person obtain a permit from the air pollution control officer of the district.

Existing law establishes the Agricultural Biomass-to-Energy Incentive Grant Program, which permits air districts, as defined, to apply to the Technology, Trade, and Commerce Agency to receive grants to provide incentives to facilities that convert qualified agricultural biomass, as defined, to fuel.

Under the Public Utilities Act, the Public Utilities Commission requires electrical corporations to identify a separate rate component to fund in-state operation and development of existing and new and emerging renewable resources technologies. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. Existing law requires specified electrical corporations to

collect specific amounts to support in-state operation and development of existing and new and emerging renewable resources technologies. Existing law also requires the State Energy Resources Conservation and Development Commission (Energy Commission) to transfer funds collected for in-state operation and development of existing and new and emerging renewable resources technologies into the Renewable Resource Trust Fund. Existing law requires that 10% of the funds collected to accomplish the funding of in-state operation and development of existing and new and emerging renewable resources technologies, after deducting certain administrative costs, be used to provide customer credits to customers that entered into a direct transaction on or before September 20, 2001, for purchases of electricity produced by registered in-state renewable electricity generating facilities. The Customer-Credit Renewable Resource Purchases Account is established within the Renewable Resource Trust Fund, a continuously appropriated fund, to accomplish these purposes.

~~This bill would authorize the Energy Commission to allocate unencumbered funds from the Customer-Credit Renewable Resource Purchases Account to the San Joaquin Valley Air Pollution Control District, upon appropriation by the Legislature, for purposes of providing incentives to qualified biomass facilities, as defined, within the district to use increased amounts of qualified agricultural biomass, as defined require the Energy Commission, in consultation with the San Joaquin Valley Air Pollution Control District and upon determining the project is eligible for funding under the Renewable Resource Trust Fund, to provide incentives to qualified biomass facilities, as defined. The Energy Commission would further be required to set incentives at levels necessary to make utilization of qualified agricultural biomass economic compared to other fuel sources, and to consider the amount and duration of other incentives available to a qualified biomass facility.~~

(2) ~~This bill would appropriate \$6,000,000 from the Customer-Credit Renewable Resource Purchases Account to the Energy Commission for allocation to the San Joaquin Valley Air Pollution Control District, for the 2003-04 fiscal year, to provide incentives to qualified biomass facilities within the district to use increased amounts require the Energy Commission, upon determining the project is eligible for funding pursuant to the Renewable Resource Trust Fund, to allocate \$6,000,000 from that fund for the 2003-04 fiscal year, to provide incentives to qualified biomass facilities within or near~~

the San Joaquin Valley Air Pollution Control District, to increase their utilization of qualified agricultural biomass.

(3) This bill would make certain findings and declarations regarding the inapplicability of a general statute within the meaning of Section 16 of Article IV of the California Constitution.

Vote: $\frac{2}{3}$ majority. Appropriation: ~~yes~~ no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 41606 is added to the Health and Safety
2 Code, to read:
3 41606. (a) It is the intent of the Legislature to reduce air
4 pollution from open field burning in the San Joaquin Valley Air
5 Pollution Control District and to improve air quality and protect
6 the public health through new incentives ~~to~~ *for* biomass facilities
7 located in ~~the district to use increased amounts or near the district,~~
8 *to increase their utilization* of agricultural waste that would
9 otherwise be burned in open fields in the district.
10 (b) ~~From unencumbered funds in the Customer Credit~~
11 ~~Renewable Resource Purchases Account within the Renewable~~
12 ~~Resource Trust Fund, the State Energy Resources Conservation~~
13 ~~and Development Commission shall allocate to the San Joaquin~~
14 ~~Valley Air Pollution Control District, those moneys appropriated~~
15 ~~by the Legislature for purposes of providing incentives to qualified~~
16 ~~biomass facilities within the district to use increased amounts of~~
17 ~~qualified agricultural biomass.~~
18 (c) ~~For purposes of this section:~~
19 (1) “Qualified agricultural biomass” means agricultural
20 residues that historically have been open-field burned in the
21 jurisdiction of the San Joaquin Valley Air Pollution Control
22 District from which the agricultural residues are derived, as
23 determined by the air district, excluding urban and forest wood
24 products, that include either of the following:
25 (A) Field and seed crop residues, including, but not limited to,
26 straws from rice and wheat.
27 (B) Fruit and nut crop residues, including, but not limited to,
28 orchard and vineyard pruning and removals.
29 (2) “Qualified biomass ~~facilities~~” ~~means facilities~~ *facility*”
30 *means a facility* located within *or near* the San Joaquin Valley Air

1 Pollution Control District, that ~~use 50 percent or more~~
2 *demonstrates significant net increases in utilization* of qualified
3 agricultural biomass ~~generated in the district~~ to convert into
4 energy, and that use best available control technology to reduce
5 emissions from the facilities.

6 ~~SEC. 2. Six million dollars (\$6,000,000) is hereby~~
7 ~~appropriated from unencumbered funds in the Customer Credit~~
8 ~~Renewable Resource Purchases Account within the Renewable~~
9 ~~Resource Trust Fund, to the State Energy Resources Conservation~~
10 ~~and Development Commission for allocation to the San Joaquin~~
11 ~~Valley Air Pollution Control District, for the 2003–04 fiscal year,~~
12 ~~to provide incentives to qualified biomass facilities within the~~
13 ~~district to use increased amounts~~

14 *(c) (1) The State Energy Resources Conservation and*
15 *Development Commission, in consultation with the San Joaquin*
16 *Valley Air Pollution Control District, shall upon determining the*
17 *project is eligible for funding under the Renewable Resource Trust*
18 *Fund, provide incentives to qualified biomass facilities.*

19 *(2) The State Energy Resources Conservation and*
20 *Development Commission shall set incentives at the level it*
21 *determines is necessary to make utilization of qualified*
22 *agricultural biomass economic, compared to other fuel sources.*

23 *(3) In setting incentive levels and determining awards, the State*
24 *Energy Resources Conservation and Development Commission*
25 *shall consider the amount and duration of other incentives*
26 *available to a qualified biomass facility, including supplemental*
27 *payments awarded pursuant to the California Renewables*
28 *Portfolio Standard Program.*

29 *SEC. 2. Upon determining the project is eligible for funding*
30 *under the Renewable Resource Trust Fund, the State Energy*
31 *Resources Conservation and Development Commission shall*
32 *allocate six million dollars (\$6,000,000) from that fund for the*
33 *2003–04 fiscal year, to provide incentives to qualified biomass*
34 *facilities within or near the San Joaquin Valley Air Pollution*
35 *Control District, to increase their utilization of qualified*
36 *agricultural biomass as provided in Section 41606 of the Health*
37 *and Safety Code.*

38 *SEC. 3. The Legislature finds and declares that, due to the*
39 *unique circumstances involving the burning of agricultural waste*
40 *in the San Joaquin Valley, a statute of general applicability cannot*

- 1 be enacted within the meaning of subdivision (b) of Section 16 of
- 2 Article IV of the California Constitution.

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